STATE OF NEW YORK

8086

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the regulation of mining and the reclamation of mines within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 23-2703 of the environmental conservation law, as amended by chapter 298 of the laws of 2018, is amended and two new subdivisions 4 and 5 are added to read as follows:

3. No agency of this state shall consider an application for a permit to mine **for a new mining site** as complete or process such application for a permit to mine pursuant to this title, within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer, if local zoning laws or ordinances prohibit mining uses within the area proposed to be mined. **In addition, no agency of this state shall consider an application for a permit to mine for a new mining site as complete or process such application for a permit to mine pursuant to this title, unless the local government shall also make a determination that such application would not adversely impact water quality or public health. Such local government shall consult with the local county health department before making a determination.**

4. In the case of existing mining sites which are legally non-conforming pursuant to local zoning laws or ordinances, (a) located within a special groundwater protection area, designated pursuant to subdivision one of section 55-0113 of this chapter and (b) within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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sole source aquifer, no application for a permit to mine shall be considered as complete or processed by the department, unless the local government makes a determination that such application would not adversely impact water quality or public health. Such local government shall consult with the local county health department before making a determination. This subdivision shall apply to all applications for mining, including applications for the expansion of mining and the renewal of existing permits. Expansion of mining shall include both horizontal and vertical expansion of the mining site.

5. In the case of mining sites which are (a) located within a special groundwater protection area, designated pursuant to subdivision one of section 55-0113 of this chapter and (b) within counties with a population of one million or more which draw their primary source of drinking water for a majority of county residents from a designated sole source aquifer: no person shall operate a mine where either the department or a county health department has issued a written determination to the owner or operator that the mine has caused or is contributing to one or more exceedances of state or federal maximum contaminant levels applicable to drinking water or groundwater resources. Cessation of mining operations as required by this section shall commence within twenty-four hours of receipt by the mine owner or operator of such written determination.

§ 2. Paragraph (b) of subdivision 3 of section 23-2711 of the environmental conservation law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

(b) If the department finds that the determinations made by the local government pursuant to paragraph (a) of this subdivision are reasonable and necessary, the department shall incorporate these into the permit, if one is issued. If the department does not agree that the determinations are justifiable, then the department shall provide a written statement to the local government and the applicant, as to the reason or reasons why the whole or a part of any of the determinations was not incorporated. The provisions of this paragraph shall not apply to any determination made by a local government pursuant to subdivisions three and four of section 23-2703 of this title. Such determination shall not be reviewable by the department and shall be binding upon the department. Such determination may be reviewed in accordance with article seventy-eight of the civil practice law and rules.

§ 3. This act shall take effect immediately.